**IN THE HIGH COURT OF UTTARANCHAL,
NAINITAL.**

WRIT PETITON NO. 3306 (S/S) OF 2001.

State of U.P. through Executive Engineer, Upper Ganga Canal, Modn. Division- 4, Hardwar.

…… Petitioner.

Versus

1.The Presiding Officer, Labour Court at Dehradun.
2.Surander Kumar son of Sri Bharat Singh, R/o Milap Nagar, Tehsil Roorkee (district Haridwar).

……. Respondents.

Learned Standing Counsel (U.P. Govt.) for petitioner.
Ld. C.S.C. for respondent No. 1 and Sri L.P. Singh, Ld Counsel for respondent no.2

02.09.2005.

HON'BLE P.C. VERMA, J.

This writ petition has been filed by the petitioner challenging the award dated 25.04.2000 in Reference Case No. 242 of 1999 by which the respondent no.2 has been reinstated. The Tribunal has further awarded Rs. 15,000/- as compensation and Rs. 1000/- expenses towards litigation to the respondent no.2.

Brief facts of the case are that the respondents on 2. was working as Chukidar with the department/employer since the year 1986. His services were terminated in the month of January, 1989 without giving any prior notice and pay in lieu of notice or retrenchment compensation. The case of the petitioner that the respondent no. 2 had worked on contract, therefore, the respondents no. 2 was not employed under any Industry.

The Labour Court, Dehradun issued the notices to the parties for filing the written statement. The petitioners as well as the respondent no. 2 appeared before the Labour Court

and filed their written statements, rejoinder affidavit and objections. The Labour Court, after considering the material on record, passed the impugned award. Feeling aggrieved the petitioners have filed the present writ petition.

I have heard learned counsel for both the parties and perused the entire material on record.

The Tribunal, after considering the peadings and and objections of the parties, decided the question of Industry relying upon the decision of Hon'ble Apex Court reported in **1996(72) F.L.R. page 841 Chief conservator of Forest Vs Jagannath Maruti Kondhare.** The Hon'ble Apex Court in this case held that sovereign function strictly understood alone qualify for exemption and not the welfare activities or economic adventures undertaken by the Government and relied upon the wide definition of the Industry given by the Hon'ble Supreme Court in the case of **Banglore Water Supply Vs. A. Rajappa reported in F.L.R. 1978 (36) page 266** and accordingly held that it was an Industry wherein the respondents no. 2 was employed.

The second question regarding employment of the respondents no.2 with the petitioner has been dealt with by the Labour Court in detail. The document, i.e. muster roll which was produced before the Labour Court by the petitioner shows that the respondents no. 2 workman had completed 240 days in a calendar year. The Tribunal has rightly held that the workman had completed 240 days in a calendar year and accordingly set aside the termination order of respondent no.2.

Learned counsel for the petitioner further contended that the claim petition has been filed after a period of 10 years and, as such, the same is not maintainable as it is highly belated. In may opinion, no interference is called for

having regards to the facts and circumstances of the case and I hold that the Labour Court has rightly mounded the award to the extent of Rs. 15,000/- as compensation and Rs. 1000/- towards expenses of litigation in lieu of the back wages to the respondent no. 2 on account of the delay in filing the claim petition.

The writ petition is devoid of merit and is dismissed accordingly. No. order as to costs.

(P. C. Verma, J)

Dated: 02.09.2005.
Negi.